

FLORIDA FCU LEAGUE, INC.



April 21, 2006

JoAnn Johnson, Chairman
National FCU Administration Board
ICO Mary Rupp, Secretary to the Board
1775 Duke Street
Alexandria, VA 22314-3428

Submitted VIA <mailto:regcomments@NCUA.gov>

Advanced Notice of Proposed Rulemaking; Supervisory Committee Audits

Dear Chairman Johnson:

The Florida FCU League (FCUL), representing almost 200 of Florida's credit unions, appreciates the opportunity to offer our comments on the National Credit Union Administration Board's action to amend or issue regulations. The FCUL is appreciates the opportunity to comment on such an important proposal as the recent NCUA Board's advance notice of proposed rulemaking on the rules for Supervisory Committee audits.

We do not agree with, nor support the NCUA Board's recent proposed rulemaking on this matter. We believe this action addresses a non-existent problem and would be over zealous and unnecessary regulation. We do not believe it appropriate to paint all financial institutions with the same brush. Credit unions are unique member owned cooperatives and not subject to the same public corporation profit pressures that Sarbanes-Oxley attempts to address. We believe that such action would prove to reduce member confidence as well as adversely impact the financial health and competitive ability of the credit union community as a whole.

Comments on NCUA Regulation Part 715

Advance Notice of Proposed Rulemaking Supervisory Committee Audits

1. *Should Part 715 require, in addition to a financial statement audit, an “attestation on internal controls” over financial reporting above a certain minimum asset size threshold? Explain why or why not.*

We do not believe a current problem exists in this area and current requirements appear to be working well. We strongly encourage NCUA to consider the increase in expense to comply with such a requirement. Publicly-traded companies have incurred a much greater expense than most predicted and the benefit has been difficult, if not impossible, to quantify. Such action would increase costs and reduce the ability to serve and reward members. Credit unions are examined and audited on a regular basis to ensure their safety and soundness. NCUA already has sufficient authority to address discrepancies and enforce administrative and financial concerns. What credit unions do not need at the present time is another layer of regulations. An “attestation on internal controls” over financial reporting should not be required for any credit union. Credit union services are limited and they are vastly different from publicly held Corporations in their ownership structure. Financial statements, while public, are not relied upon for investment decisions.

2. *What minimum asset size threshold would be appropriate for requiring, in addition to a financial statement audit, an “attestation on internal controls” over financial reporting, given the additional burden on management and its external auditor? Explain the reasons for the threshold you favor.*

While we do not favor such an onerous regulation, a threshold of less than \$1 billion should not even be considered. Competitive equality should certainly require a threshold no lower than that accorded other financial intuitions.

3. *Should the minimum asset size threshold for requiring an “attestation on internal controls” over financial reporting be the same for natural person credit unions and corporate credit unions? Explain why.*

No. Corporate credit unions generally have far fewer accounts with much, much larger balances. A much larger threshold would therefore be appropriate: we would suggest a figure not less than \$25 billion.

4. *Should management’s assessments of the effectiveness of internal controls and the attestation by its external auditor cover all financial reporting, (i.e., financial statements prepared in accordance with GAAP and those prepared for regulatory reporting purposes), or should it be more narrowly framed to cover only certain types of financial reporting? If so, which types?*

If compliance becomes a requirement, a narrower scope would help to contain cost and should cover no more than required regulatory reporting purposes.

5. *Should the same auditor be permitted to perform both the financial statement audit and the “attestation of internal controls” over financial reporting, or should a credit union be allowed to engage one auditor to perform the financial statement audit and another to perform the “attestation on internal controls?” Explain the reasons for your answer.*

Yes, to both questions. If an “attestation” is required, it could be performed by any auditor chosen by the credit union; either the credit union’s regular internal auditor or the credit union’s supervisory committee choice of a separate entity. We would also suggest that credit union internal audit departments could perform all or portions of the “attestation,” as long as the audit department did not report to or fall under the authority of management.

6. *If an “attestation on internal controls” were required of credit unions, should it be required annually or less frequently? Why?*

If an attestation becomes required, we believe that it should be required no more frequently than once every 3-5 years, unless there are significant changes in the credit union’s operations, management or internal control environment.

7. *If an “attestation on internal controls” were required of credit unions, when should the requirement become effective (i.e., in the fiscal period beginning after December 15 of what year?*

If an “attestation” is mandated, we would highly recommend a long-term lead-in period, one not sooner than 2010.

8. *If credit unions were required to obtain an “attestation on internal controls,” should Part 715 require that those attestations, whether for a natural person or corporate credit union, adhere to the PCAOB’s AS 2 standard that applies to public companies, or to the AICPA’s revised AT 501 standard that applies to non-public companies? Please explain your preference.*

Neither - We understand that the AICPA is currently working to revise AT501 to more closely parallel the PCAOB’s Auditing Standard 2. As previously stated we do not believe either standard is necessary or desirable, and believe imposition of either would be onerous. If it becomes necessary, we would like to see a regulatory option that would effectively address the unique operations of credit unions. Imposition will result in additional expenses and result in declines in credit union earnings. This will likely cause a decline in the number of credit unions through merger or conversion as they find it next to impossible to comply with increasingly burdensome regulations.

9. *Should NCUA mandate COSO's Internal Control – Integrated Framework as the standard all credit union management must follow when establishing, maintaining and assessing the effectiveness of the internal control structure and procedures, or should each credit union have the option to choose its own standard?*

No! We would not object if NCUA recommended the COSO model for internal control, but believe that the ultimate decision belongs to management. NCUA currently reviews credit union internal controls during examinations and reviews audits for internal control discrepancies. They can evaluate internal control effectiveness and require correction of weaknesses and discrepancies, but resolution methods are a management prerogative. "COSO "is but one method of establishing control activities". Mandating COSO or any other standard will place an undue burden on credit unions of various sizes, operations and services. The complexity and uniqueness of credit union operations also needs to be considered when determining a credit union's internal control requirements.

10. *Should Supervisory Committee members of credit unions above a certain minimum asset size threshold be required to have a minimum level of experience or expertise in credit union, banking or other financial matters? If so, what criteria should they be required to meet and what should the minimum asset size threshold be?*

No. We believe that supervisory/audit committee members should have sufficient independence and qualifications depending on the size and complexity of credit union; however; we do not support mandated requirements. This should be a credit union decision based on sound business operations. Qualification deficiencies and independence concerns can be addressed on an as needed basis by auditors and regulatory authorities. Setting an arbitrary asset limit could actually have an undesired effect and result in smaller institutions appointing less qualified individuals since these positions are voluntary and unpaid.

11. *Should Supervisory Committee members of credit unions above a certain minimum asset size threshold be required to have access to their own outside counsel? If so, at what minimum asset size threshold?*

"Yes"- Supervisory committees should have access to counsel. This should be an option, but not a requirement to all but the smallest credit unions.

12. *Should Supervisory Committee members of credit unions above a certain minimum asset size threshold be prohibited from being associated with any large customer of the credit union other than its sponsor? If so, at what minimum asset size threshold?*

Credit unions do not have customers but members. We are not sure how to categorize a “large member.” Members generally do not have similar relationships with credit unions as corporations do with banks. However, supervisory/audit committee members’ relationships with entities that the credit union has a contractual relationship with, should be of concern and should always be disclosed. Credit union directors can then determine if such a relationship result in a conflict of interest and act accordingly. We see no reason for an asset size distinction.

13. *If any of the qualifications addressed in questions 10, 11 and 12 above were required of Supervisory Committee members, would credit union have difficulty in recruiting and retaining competent individuals to serve in sufficient numbers? If so, describe the obstacles associated with each qualification.*

Yes, making it even more difficult that it already is. Credit unions are always challenged to find qualified, capable and committed supervisory/audit committee members, (uncompensated volunteers).

14. *Should a State-licensed, compensated auditor who performs a financial statement audit and/or “internal control attestation” be required to meet just the AICPA’s “independence” standards, or should they be required to also meet SEC’s “independence” requirements and interpretations? If not both, why not”*

No! AICPA standards are sufficient. We see no need for imposing additional regulations such as the SEC requirement.

15. *Is there value in retaining the “balance sheet audit” in existing Part 715.7(c) as an audit option for credit unions with less than \$500 million in assets?*

We see no reason to eliminate this option.

16. *Is there value in retaining the “Supervisory Committee Guide audit” in existing Part 715.7(c) as an audit option for credit unions with less than \$500 million in assets?*

We believe that smaller credit unions should have this option. Audit sufficiency can be addressed in regulatory examinations. Eliminating this option will result in vastly increased expenses for many small credit unions. These credit unions present a limited risk to the NCUSIF. Requiring a CPA audit for small credit union could effectively render them no-competitive and result in additional mergers and liquidations. League audit programs and other non-CPA’s who regularly perform the “Supervisory Committee Guide” audit are typically more knowledgeable about credit union services, accounting and regulations than do CPA firms that only have few credit union clients.

17. *Should Part 715 require credit unions that obtain a financial statement audit and/or an “attestation on internal controls” (whether as required or voluntary) to forward a copy of the auditor’s report to NCUA? If so, how soon after the audit period end? If not, why not?*

No. This requirement was dropped many years ago. Audits are reviewed and evaluated during examinations. If a copy of the audit was forwarded to the NCUA, who would review It? This would most likely result in NCUA requiring additional staff and passing additional cost along to credit unions.

18. *Should Part 715 require credit unions to provide NCUA with a copy of any management letter, qualification, or other report issued by its external auditor in connection with services provided to the credit union? If so, how soon after the credit union receives it? If not, why not?*

No, same comments as above. However, there should be a requirement that they be made available immediately upon commencement of any regulatory examination.

19. *If credit unions were required to forward external auditors’ reports to NCUA, should Part 715 require the auditor to review these reports with the Supervisory Committee before forwarding them to NCUA?*

Yes, if mandated. Audit Committee members should always meet with external auditors during an audit, be required to attend exit conferences with auditors and review draft reports and management letters. Only by so doing can they understand the audit results and the recommendations contained in the management letter.

20. *Existing Part 715 requires a credit union’s engagement letter to prescribe a target date of 120 days after the audit-period end for the delivery of the audit report. Should this period be extended or shortened? What sanctions should be imposed against a credit union that fails to include the target delivery date within its engagement letter?*

120 days is sufficient; it certainly should not be shortened. NCUA might consider a change to 120 days after the date the audit **commences** rather the **audit period-end**.

No sanctions should be established as a regulatory requirement, however we do not object to a requirement for a “target date” inclusion in audit contracts and engagement letters. Deficiencies in this area can be addressed on a case by case issue.

21. *Should Part 715 require credit unions to notify NCUA in writing when they enter into an engagement with an auditor, and/or when an engagement ceases by reason of the auditor’s dismissal or resignation? If so in cases of dismissal or resignation, should the credit union be required to include reasons for the dismissal or resignation?*

No. Again, this appears to be an issue best addressed during a regulatory examination.

22. NCUA recently joined the final *Interagency Advisory on the Unsafe and Unsound Use of Limitation of Liability Provisions in External Audit Engagement Letters*. 71 FR 6847 (Feb. 9, 2006). Should credit union Supervisory Committees be prohibited by regulation from executing engagement letters that contain language limiting various forms of auditor liability to the credit union? Should Supervisory Committees be prohibited from waiving the auditor's punitive damages liability?

Yes. Supervisory/audit committees should be prohibited from such action limiting the auditor's liability provides limited protection to the credit union's members and result in a product upon which the credit union can place limited reliance and exposes the credit union to potential losses and auditor negligence. It provides little protection from fraud related to auditor performance.

Thank you for allowing us to share our comments. We always appreciate the NCUA Board's decision to give credit unions, associations and others an opportunity to participate in the regulatory process. We hope the NCUA Board finds our comments useful in evaluating their action on this proposal.

Sincerely Yours,

A handwritten signature in black ink, reading "Guy M. Hood", is positioned to the left of a vertical red line.

Guy M. Hood, President/CEO
Florida FCU League, Inc.

cc: Mary Dunn, Associate General Counsel CUNA